Subscription to any multichannel video programming provider requires a dedicated physical connection to the back of viewers' television sets[32]. Prior to the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act") and the implementation of its "must-carry" requirements, operators were required to make available to subscribers input selector switches allowing subscribers to choose between cable and off-air services without changing the physical connection to their television receivers[33]. This requirement was abolished by the Commission when the must-carry provisions were imposed, reasoning that broadcasters were entitled to carriage if they elected "must-carry" status. If the broadcaster opted to exercise retransmission consent rights and did not ultimately grant consent, the resulting loss of viewership is of its own choice. As a practical matter, viewers do not typically purchase antennas and separate connections to accommodate removal of a particular broadcast station from a cable system's channel line-up. Rather, it appears that viewing patterns simply change, with fewer viewers choosing to watch the affected signal.

B. The Proposed Transfer Will Place The Licenses Under The Control Of A Media Giant With Internally Conflicting Economic Interests That Will, Based On Prior Conduct, Impair Satisfaction Of The Transferee's Obligation As A Broadcaster To Serve The Local Interest Because Of Reduced Local Viewership Of Its Signal.

SCBA fully expects Cap Cities/ABC and Disney to respond that since the revenues of broadcast television are driven by market penetration, they would not be acting in a

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[32]As a practical matter, one cannot have a closed transmission path connection (i.e. cable television) and an antenna connected to a television receiver simultaneously or else broadcast signal egress will result, causing distortion of one or more channels on the system.

[33]47 C.F.R. Section 76.66 (repealed).

rational manner by seeking to reduce viewership by effectively refusing to have their broadcast signals carried by small cable systems. This contention, however, is not borne out by the conduct of Cap Cities/ABC in the past where it has refused to grant retransmission consent where its terms of adhesion were not accepted.

The past conduct already evidences the conflict of interest within media companies that seek to sell both cable programming and off-air programming to cable television systems. Based on prior conduct, the incremental financial rewards from the sale of the cable services must be greater than the marginal loss of revenues because of the loss of cable subscribers as viewers when the operator is not allowed to carry the broadcast signal.

Given that the combined entity will initially hold the same broadcast properties, but have access to a large and growing bank of cable programming services, the scales will continue to rapidly shift towards an internal imbalance heavily favoring protection of the economic interests of the cable programming ventures. In essence, the proposed transfer of licenses will place them within an entity where serving the local programming interest of the broadcast station cannot, because of economic factors, reign. The Commission cannot permit these licenses to be held captive where the execution of the prime directive, serving the local interest, is literally discarded because of internal economic pressures inherent in such an organization.

It is not in the public interest, convenience and necessity to place the licenses of major broadcast properties in the hands of a media giant which not only no longer has broadcasting as its primary focus, but whose principals have a history of holding the interests

of the broadcaster and local viewing public hostage to satiate economic desires of other non-broadcast business ventures.

C. The Proposed Combination Of Vast Programming Interests With Significant Broadcast Licensees And The Detrimental Impact On Small Cable Systems And Subscribers Directly Conflicts With The Commission's Long-Standing Goal Of Diversifying Mass Media Interests.

Of historic concern to the Commission in establishing its licensing policies is the issue of multiple ownership of the media of mass communication and the potential for monopoly. This Commission has ". . long acted on the theory that diversification of mass media ownership serves the public interest by promoting diversity of programs and service viewpoints, as well as by preventing undue concentration of economic power."[34] Such concern for the public interest has resulted in the issuance by the Commission of serial regulations over time imposing restrictions on multiple ownership of broadcast stations.[35]

In enacting 47 U.S.C. 309(i)(3)(A), Congress determined that significant preferences will be granted to applicants for licenses for any media of mass communications where the grant of the license would increase the diversification of ownership of the media of mass communications. In 47 U S.C. 309(i)(3)(C), the term "media of mass communications" is defined to include television, radio, cable television, multipoint distribution service, direct broadcast satellite service and other services, the licensee's facilities of which may be

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[34]*FCC v. National Citizens Committee for Broadcasting* (1978) 436 U.S. 775, 780, 98 S.Ct 2096, 56 L.Ed. 2d 697.

[35]*Id* at 783. This strong interest in avoiding undue concentration of mass media interests was strongly and recently reaffirmed by this Commission. *Further Notice of Proposed Rule Making*, 10 FCC Rcd 3524 (December 15, 1994).

substantially directed toward providing programming or other information services within the editorial control of the licensee.

As discussed above, the proposed merger will permit Cap Cities ABC and Disney to consolidate their programming and force it on cable operators on a "take it or leave it basis" under terms and conditions which small operators will not be able to meet. Given the prior conduct of the Cap Cities/ABC and Disney, the increase in market power and the manner in which they choose to make programming available to two-thirds of the cable systems in the country, especially those located with the broadcast station ADI's, will run directly contrary to the Commission's goal of promoting diversity in the mass media.

IV. ALTERNATIVELY TO GRANTING THIS PETITION TO DENY, THE COMMISSION CAN ACT VIA RULEMAKING TO PREVENT SOME OF THE ABUSES OF THE RETRANSMISSION CONSENT PROCUREMENT PROCESS EVIDENCED IN THIS PETITION AND IT CAN ALSO ENCOURAGE THE PROPOSED TRANSFEREE TO ENTER INTO A LONG-TERM AGREEMENT WITH NCTC TO END THE PRICING ABUSES WHICH SCBA IS CONCERNED WILL GROW AS A RESULT OF THE PROPOSED TRANSFER.

Much of the concern SCBA has articulated with respect to the proposed transfer can be mitigated by an affirmative change in conduct toward small cable systems by both Cap Cities/ABC and Disney. Such changes in conduct would have to be evidenced by and committed to through, at a minimum, the execution of a long-term agreement to provide programming to NCTC at terms and prices substantially similar to those offered comparably sized operators. Furthermore, action must be taken to preempt the unfair and burdensome tying arrangements sought by the broadcast stations in return for granting retransmission consent. Such assurances could be sought by the Commission from the proposed transferee as a condition to approval of the license transfers or, in the alternative, the Commission

could promulgate regulations prohibiting tying arrangements as an element of retransmission consent agreements.

V. CONCLUSION

For the foregoing reasons, the Petition to Deny must be granted as transfer of the licenses under the current merger agreement is clearly not in the public interest. While the concerns of and harm inflicted on SCBA members is of real and continuing concern, appropriate remedies can be reached short of an outright denial. If, however, such alternative resolutions are not forthcoming, SCBA respectfully requests that the applications be designated for hearing.

Respectfully submitted,

SMALL CABLE BUSINESS ASSOCIATION

By: _____

Eric E. Breisach
Christopher C. Cinnamon
Frederick G. Hoffman
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Kalamazoo, Michigan 49007

Attorneys for Small Cable Business Association

EXHIBIT A

DECLARATION

1. My name is David D. Kinley. I am Chairman of the Small Cable Business Association ("SCBA"), c/o Kinley and Associates, 7901 Stoneridge Drive, Suite 404, Pleasanton, CA 94588-3600.

2. SCBA is an association of more than 350 small cable businesses nationwide which operate small cable systems, over half of which members have fewer than 1,000 subscribers in total

3. SCBA regularly participates in proceedings before the Federal Communications Commission on behalf of its members businesses, voicing the views of those members on issues before the Commission that impact small cable operators.

4. I reside in California and am the owner and operator of Sun Country Cable, a cable company with approximately 10,000 subscribers in 16 systems.

5. I have reviewed the foregoing Petition to Deny on behalf of SCBA and its members. All of the relevant facts stated in the Petition, not otherwise documented by source, are subject to Official Notice by the FCC as they come from the transfer applications, the station's public files, other FCC filings, or press accounts.

6. In the summer and early fall of 1993, I negotiated on behalf of Sun Country Cable with Station KGO, the Capital Cities/ABC owned and operated station licensed to San Francisco, California, for retransmission consent to carry KGO on the Sun Country Cable system serving about 1,000 customers in Los Altos Hills, California. Capital Cities/ABC required, as a condition to retransmission consent, that Sun Country Cable add ESPN2 to its lineup. Because Sun Country Cable was financially and technically unable to add ESPN2 to its lineup without making equipment expenditures, uneconomical for a small system, retransmission consent for KGO was not granted by Capital Cities/ABC, forcing Sun Country Cable to drop that signal.

7. I am personally aware of numerous other instances in which Capital Cities/ABC owned and operated stations have conditioned retransmission consent upon the carriage of ESPN2 at rates dictated by Capital Cities/ABC.

8. Transfer of control of the ABC and Disney broadcast licenses to a post-merger Disney company is not in the public interest, convenience or necessity because:

   A. The proposed transfer will place the licenses under the control of a media giant with sufficient market power over small cable operators to hold retransmission consent hostage by mandating carriage of national cable programming services owned by the proposed transferee resulting in either higher costs for cable subscribers or loss of local broadcast signal dissemination through local cable systems;

B. The proposed transfer will place the licenses under the control of a media giant that will have internally conflicting economic interests that will detract from satisfaction of the transferee's obligation as a broadcaster to serve the local interest as the proposed transferee will, based on prior conduct, withhold local retransmission consent in favor of obtaining distribution of its non-local, non-broadcast programming, consequently reducing local viewership of its signal.

9. This Declaration has been prepared in support of the foregoing Petition to Deny. The argument and concerns presented in the Petition are of critical importance to the SCBA and its membership.

10. This Declaration is made upon my personal knowledge and belief under penalty of perjury of the United States of America, and if sworn as a witness, I can testify competently to the facts stated herein.

Dated: September 27, 1995

David D. Kinley

[redacted]

EXHIBIT B

Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of	)	
	)	
Annual Assessment of the Status	)	
of Competition in the Market for	)	CS Docket No. 95-61
Delivery of Video Programming	)	
	)	
	)	
	)	

REPLY COMMENTS
OF
THE SMALL CABLE BUSINESS ASSOCIATION

Eric E. Breisach
Christopher C. Cinnamon
James C. Wickens

HOWARD & HOWARD
107 W. Michigan Ave., Suite 400
Kalamazoo, Michigan 49007

Attorneys for the Small Cable Business Association

Dated: July 28, 1995

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I. INTRODUCTION

The Small Cable Business Association ("SCBA") files these Reply Comments to support and expand upon the comments of the National Cable Television Cooperative, Inc. ("NCTC") filed in this docket ("*NCTC Comments*"). SCBA and its members are keenly interested in issues raised in the *NOI*[1] concerning the pricing practices of non-vertically integrated programming providers. Many of SCBA's members are also members of NCTC. Drastic differentials in prices for programming have made such association essential to survival: favorable pricing for large MSO's significantly impacts small cable operators' ability to compete. The problem is that non-vertically integrated programming providers ignore the efficiencies of providing programming to NCTC and flatly refuse to negotiate with the Cooperative. Current Commission regulations do not protect small cable operators from these anti-competitive tactics.

SCBA is a grass-roots organization of over 340 members. More than half of them operate systems with less than 1,000 subscribers. Nearly all of SCBA's members have recently gained long-awaited rate relief in the *Eleventh Order on Reconsideration*. Still, cost pressures, particular programming cost pressures, continue to squeeze small operators. The Commission can ease this economic bind by addressing the discriminatory practices of certain non-vertically integrated programming providers.

These Reply Comments primarily focus on three critical questions posed in the *NOI*:

1. Should the program access rules be extended to non-vertically integrated program providers?[2]

2. Have the nondiscriminatory rate provisions (e.g., the volume discount provision) of the program access rules affected the competitive viability of small systems and

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[1] *Notice of Inquiry*, CS Docket No. 95-61, FCC 95-186 (released May 24, 1995) ("*NOI*").

[2] *NOI* at ¶ 90.

small system operators?[3]

3. Are there other practices of which the Commission should be aware regarding program supply?[4]

SCBA submits an emphatic yes to each question. As discussed below, continuing unjustified price discrimination by non-vertically integrated programming providers that adamantly refuse to deal with NCTC seriously impacts the operating costs of small cable operators. This consistent anti-competitive conduct by certain programming providers directly collides with the policies underlying the 1992 Cable Act. The Commission can right this continuing wrong by extending programming access rules to non-vertically integrated program providers.

In addition to the unjustified programming price discrimination described by NCTC and in these Reply Comments, SCBA seeks Commission review of the requirement that NCTC members must assume joint and several liability for the co-ops obligations. The impeccable payment record of NCTC shows that this requirement is an unnecessary burden on small cable operators, a class of businesses whose monetary obligations, even contingent ones, are already scrutinized with excruciating detail by creditors and potential creditors. The joint and several liability requirement serves no practical purpose and should cease.

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[3] *Id.*

[4] *NOI* at ¶ 91.

II. NON-VERTICALLY INTEGRATED PROGRAM PROVIDERS CONTINUE UNJUSTIFIED PRICE DISCRIMINATION AGAINST NCTC AND SMALL CABLE OPERATORS.

A. Small cable operators still face disproportionately high programming costs.

The Commission has recognized that small cable systems and small cable companies face disproportionately higher costs than larger systems and MSO's. The Commission has made many steps toward rectifying the disproportionate burden of regulation on small operators, most recently in the *Eleventh Order on Reconsideration*. That rulemaking represents significant progress in addressing the economic and financial predicaments of smaller systems. More remains to be done, however. The unjustified price discrimination by non-vertically integrated programming providers refusing to deal with NCTC remains a serious impediment to small operators ability to compete.

Small cable operators are still faced with substantially higher programming costs for small cable businesses than larger companies. On average, larger companies (MSO's) receive discounts ranging between 97% and 10%.[5] As detailed in supplemental comments filed with the Commission by the SCBA earlier this year, SCBA members are paying 54% more for programming than large MSOs.[6] By way of example, an SCBA member was charged 54¢ for ESPN compared to the 42¢ charged to a large MSO. Similarly, SCBA members are charged 19¢ for The Nashville Network compared to 7¢ for a large MSO. These higher programming costs

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[5] This conclusion is supported by research performed by Paul Kagan Associates in Cable TV Programming, April 30, 1992 at p. 4.

[6] Supplemental Comments of SCBA in Further Support of Interim Benchmark Adjustments for Low Density and Small Cable Operators, dated February 15, 1994. MM Docket #92-266.

adversely impact the viability of small cable systems.

To address this problem, many SCBA members have joined NCTC. Still, many small operators remain locked out from the benefits of the economies of scale that NCTC could offer. Certain non-vertically integrated programming providers refuse to recognize and negotiate with NCTC. Consider the following documented examples of unreasonable discrimination. Both ESPN and the Nashville Network have refused to make their programming available to NCTC. Worse yet, Group W Satellite Communications has informed the Co-op that it will not renew the contract for Country Music Television ("CMT") that Group W acquired with the purchase of CMT.[7] As further evidence of underhanded and anti-competitive conduct against NCTC, Group W attempts to justify its refusal to sell the Nashville Network to the Co-op by stating that it will not transact with NCTC because the Co-op does not have an affiliate agreement with CMT.[8] After Group W canceled the Co-op's contract, of course it has no such agreement! This is precisely the type of anti-competitive discrimination that the 1992 Cable Act and the Commission have sought to eradicate.[9]

B. The restrictions on vertically integrated programmers have benefitted small cable operators.

The 1992 Cable Act reflects Congressional concern over small cable operators and others who were denied access to, or charged more for, programming than large cable operators. The

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[7]See June 1, 1995 Group W letter, attached as exhibit 3.

[8]See June 1, 1995 Group W letter, attached as exhibit 4.

[9] The Commission has stated that discrimination occurs when a vendor unreasonably refuses to sell "to a class of distributors." As clearly demonstrated, these discriminatory practices continue to exist and harm small cable systems and their subscribers. See *First Report and Order* at ¶ 116.

Senate Record contains testimony that small cable operators were consistently being denied access to or charged more for programming services than large vertically-integrated cable operators. In order to address the complaints of small cable operators that programmers have unreasonably discriminated against them in the sale of programming services, the 1992 Act and the Commission's rules require vertically integrated, national cable programmers to make programming available to all cable operators and their buying agents on similar price, terms and conditions.[10] Congress' and the Commission's efforts in this area have benefitted small cable.

Since the passage of the 1992 Act, the NCTC has successfully entered into agreements with virtually all vertically integrated program providers on behalf of its members, many of whom are also members of the SCBA. For an example, on June 15, 1995, the NCTC entered into binding contracts with Time-Warner and Viacom to sell their programming services to the co-op. As explained in a news article:

> The SCBA is extremely pleased that Time-Warner and Viacom signed binding agreements with NCTC. These companies have refused for eleven years to sell their programming to the co-op. Due to the recent agreements SCBA members will be able to obtain programming on reasonable terms and conditions for HBO, Cinemax, Show Time, The Movie Channel, Nickelodeon, MTV, and VH-1.[11]

Before this, both Time-Warner and Viacom had refused to deal with the NCTC as a buying group for programming services. Rather, individual members were forced to purchase directly from Warner and Viacom, at substantially higher cost, or be unable to offer the top rated programming services to their subscribers. Clearly, these programmers would not have dealt with

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[10] 47 U.S.C. § 547; 47 C.F.R. §§ 76.1000-76.1003.

[11] See Exhibit 1.

the NCTC and other buying groups but for the requirements imposed by the 1992 Cable Act and the Commission's rules. Unfortunately, this relief for NCTC and SCBA members remains overshadowed by continuing discrimination by non-vertically integrated programming providers.

C. The restrictions on vertically integrated programmers should be extended to non-vertically integrated programmers.

SCBA supports the comments of NCTC indicating that major program suppliers continue to refuse to make their services available to small operators on fair terms through the NCTC. The impact of this conduct is extensive. Currently, 8 of the top 25 cable programming services are non-vertically integrated.[12] By refusing to deal with NCTC, these programmers are forcing small operators and their customers to subsidize the deep discounts offered to large MSOs. From the financial standpoint of small operators and their subscribers, there is no difference between being refused access to programming, or being overcharged by a vertically or non-vertically integrated programmer.

The SCBA has urged many of these non-integrated video program providers to follow the lead of Time-Warner and Viacom by ending their unreasonable refusal to sell programming to the NCTC. Recently the SCBA sent letters to Group W, The Disney Channel, ESPN, The Arts and Entertainment Network, Lifetime, and the U.S. Network asking that they agree to sell their programming services to the co-op.[13] The programmers refuse to respond. Consequently, SCBA members and their subscribers continue to pay higher rates for programming costs because the NCTC is unreasonably being denied the hugh volume discounts that large MSOs receive.

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[12]MM Docket No. 92-264, April 4, 1995 at ¶ 15.

[13]See Exhibit 2.

The refusal of certain programmers to negotiate with the NCTC is unjustified and anti-competitive. The Commission has previously outlined legitimate reasons that could conceivably prevent program providers from contracting with SCBA members and buying groups. These include the possibility of: (i) parties reaching an impasse on particular terms; (ii) history of defaulting on other programming contracts; or (iii) a preference not to sell in a particular area.[14] None of these legitimate reasons exist to justify the refusal of Group W and others to deal with NCTC. NCTC already assumes responsibility for billing all its members and sending one payment along with a complete report covering all systems to video program providers. There is no valid reason for concern of financial performance by the NCTC. The NCTC has never defaulted on other programming contracts. Similarly, it is impossible for the parties to have reached an impasse on a particular term since these programming providers have refused to even enter into negotiations with NCTC. Finally, since NCTC members include small cable operators nationwide, there can be no justification for the programmer's to refuse to sell based upon a particular service area. Rather, large cable operators, and other providers such as DBS, have used their market power to obtain huge programming discounts from program providers that place small cable operators at a distinct competitive disadvantage.

Regulation of programming access has worked to benefit small cable operators and their subscribers in the context of vertically integrated programming providers. The Commission will serve the fundamental principles of the 1992 Cable Act by extending restrictions on discriminatory pricing to non-vertically integrated programming providers. This will foster increased competition, expand services available to subscribers and help ensure that the costs of

[14]First Report and Order at ¶ 116.

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[14]First Report and Order at ¶ 116.

those services remain reasonable.

III. THE COMMISSION'S JOINT AND SEVERAL LIABILITY REQUIREMENT IS NO LONGER NECESSARY OR REASONABLE.

SCBA must also address here the Commission's rule that a buying group seeking unitary treatment from a programming vendor must require all individual members to agree to joint and several liability.[15] NCTC's flawless payment record shows that this requirement is absurd. In its eleven-year history the NCTC has neither been late nor missed a single payment to a video programming provider. Under such circumstances, a requirement that members agree to be jointly and severally liable is unnecessary and commercially unreasonable.

The Commission's statutory authority for this provision is based upon § 628(c)(2)(b) of the 1992 Act which allows the commission to establish "reasonable requirements" for credit worthiness and financial stability. In view of the excellent financial performance of the NCTC, the continued requirement of joint and several liability is no longer a reasonable requirement. Such required guaranties impact the already difficult process many SCBA members confront when attempting to obtain financing. Many creditors, already skittish about small cable, view co-op guaranties with increased suspicion. SCBA asks that the Commission remove this requirement from its regulations and leave such contractual terms to the marketplace.

IV. CONCLUSIONS

SCBA supports NCTC's call for Commission action on the unjustified price discrimination by non-vertically integrated programming providers. The Commission should extend the prohibition of discrimination by vertically integrated programming providers to non-vertically

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[15] 47 C.F.R. § 76.1300(b)(1).

integrated programming providers. In addition, the Commission can discard the requirement of joint and several liability for members of buying groups and leave such transactional terms to the market place.

Respectfully submitted,

Howard & Howard Attorneys, P.C.

By: _____

Eric E. Breisach
Christopher C. Cinnamon
James C. Wickens

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Small Cable Operators Support S. 652 And Program Access

SCBA is pleased with the passage of S. 652 by the Senate. We congratulate all those Senators who have worked so hard to craft a sensible telecommunications policy for the 21st Century, especially Senators Pressler, Hollings, Dole, Daschle and Lott.

As among the smallest players in the telecommunications industry, small cable operators face unique concerns. We are very pleased with the Senate's acceptance of SCBA's position on rate relief for small companies. We look forward to working with the Senate and the House to adopt a comprehensive policy framework which will allow these operators to continue providing excellent service to the subscribers in their home towns.

SCBA was informed of the execution of final contracts negotiated by the National Cable Television Cooperative (NCTC) with Time-Warner and Viacom on June 15, shortly before the final vote on S. 652. Once binding contracts were signed by both Time-Warner and Viacom, SCBA believed that these major programmers could no longer deny programming to small operators and their consumers on reasonable terms and conditions.

SCBA is extremely pleased that Time-Warner and Viacom signed binding agreements with NCTC. These companies had refused for eleven years to sell their programming to the Co-op. These new agreements will enable SCBA's members to obtain programming from the following seven services on reasonable terms and conditions for the first time ever:

HBO

Cinemax

Showtime

The Movie Channel

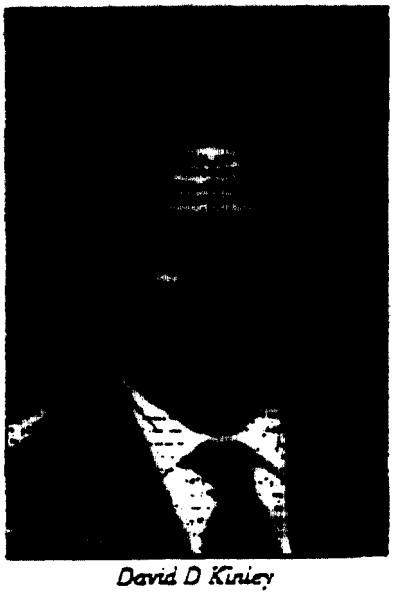
Nickelodeon

MTV

VH-1

The more reasonable rates now agreed to by Time-Warner and Viacom will narrow the huge gap in program pricing between large and small cable operators. These contracts also eliminate the unreasonable refusal by Time-Warner and Viacom to deal with the Co-op.

SCBA is deeply grateful to all those Senators, on both sides of the aisle, who have consistently supported program access on fair terms for small cable operators and their consumers. That support was crucial to bringing these two giant media conglomerates to the table with the Co-op.



David D Kinley

SCBA notes, however, that there are still major program suppliers who refuse to make their services available to small operators on fair terms through NCTC. SCBA's sincere hope is that the hold outs among the "non-vertically integrated" programmers (i.e. those who do not own cable systems) will now do as most other cable programmers and sell their programming to NCTC. While not subject to the programming provisions of the 1992 Cable Act, these companies violate the spirit of that Act daily by refusing to deal with NCTC:

Group W (Nashville Network, Country Music Television)

Capital Cities/ABC (ESPN, ESPN2)

The Disney Channel

Hearst/Capital Cities/NBC (Arts and Entertainment)

Hearst/ABC (Lifetime Television)

Paramount/MCA (USA Network, Sci-Fi Channel)

Small operators and their customers should not be asked to continue subsidizing the huge discounts given by these companies to Big Cable.

SCBA calls on these companies to follow the lead of Time-Warner and Viacom and end their refusal to deal with small cable operators through the Co-op. ❐

Reprinted from *Independent Cable News* July 1995

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Phone (510) 463-0404 FAX (510) 463-9627

July 12, 1995

FAX TRANSMITTAL MEMO

TO: ERIC BRESACH — NO. OF PAGES: 7
DEPT: ____ FAX #: ____
FROM: DAVID KINLEY PHONE: ____
CO: ____ FAX #: ____
Post-it™ brand fax transmittal memo 7671

Mr. Don Mitzner
President
Group W Satellite Communications
41 Harbor Plaza Drive
Stamford, CT 06904

Dear Mr. Mitzner:

We have been informed that your company continues to deny the programming of The Nashville Network and Country Music Television to the National Cable Television Cooperative, a program purchasing group for small cable operators. During the Senate's consideration of S. 652, both Time-Warner and Viacom decided to execute contracts with the Co-op.

In light of this, we thought you would be interested in the enclosed article about small operators' continued determination to have all program suppliers make their programming available to the Co-op. On behalf of its 370 member companies, the Small Cable Business Association calls on Group W to follow the lead of Time-Warner and Viacom by ending the unreasonable refusal to sell your programming to the Co-op.

Sincerely,

David D. Kinley

David D. Kinley
Chairman